

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3360 of 1997

to

FIRST APPEAL No 3369 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SPL.LAQ OFFICER

Versus

KIRITBHAI PRABHUDAS PATEL

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Appearance:

Ms. HARSHA DEVANI, AGP for Appellant

MR PB MAJMUDAR for Respondents

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CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 27/03/98

ORAL JUDGEMENT

Per : Y.B. Bhatt, J.

1. Heard the learned counsel for the respective

parties. Appeals are admitted. Mr. P.B. Majmudar waives service for the respondents-claimants.

2. On a joint request made by learned counsel for the respective parties, these appeals are taken up for final hearing today.

3. These appeals are filed by the Special Land Acquisition Officer on behalf of the State of Gujarat challenging the judgment and awards in a group of Land Reference Cases under section 18 of the said Act.

4. The pertinent facts in brief which are not in dispute are to the following effect. The lands were acquired for the main Canal of Narmada Project and are situated in the village Kanjri, Taluka Halol, District Panchmahals, for which the relevant notification under section 4 is dated 14th June, 1984. The LAO in his award under section 11 had granted only Re.1/- per sq. mt. for the acquired lands whereas the same was enhanced by the Reference Court in its award under section 18 to Rs. 14/- per sq. mt.

5. These appeals have therefore been preferred by the State for the purpose of reducing the amount of compensation granted by the Reference Court.

6. Having heard the learned counsel for the respective parties and having gone through such relevant evidence which has been referred to us by learned counsel for the respective parties, we find that the Reference Court has ultimately determined the market value of the acquired lands on the basis of three different groups of awards (under section 18 of the said Act). The first instance relied upon arises from the awards in a group of Land Reference Cases ( Ex. 29) wherein the market value of the land was determined at Rs. 14/- per sq. mt. It is pertinent to note that in these instances, the relevant notification under section 4 was dated 13th July, 1984 i.e. within a period of about one month of the instant notification. Being aggrieved by the said awards, the State had preferred a group of appeals to this Court namely F.A.Nos. 2881/95 to 2891/95, which came to be heard and decided by an earlier Bench (Coram : J.N. Bhatt & M.H. Kadri, JJ) by their judgment and order dated 6th May, 1997. This Bench determined the market value of the acquired lands at Rs. 11/- per sq. mt. We have carefully perused the said judgment and we find that the same is a judgment on merits and on a reappraisal of the entire evidence on record relevant to that group of Land Reference Cases. Learned counsel

for the respondents-claimants is unable to point out any significant distinction, either in respect of the lands or in respect of the contentions raised and considered, which would induce us to take any other view on the question of market value.

6.1 It may also be mentioned here that the other two instances relied upon by the Reference Court namely Exhs. 56 & 57, which are awards under section 18 of the said Act, in different groups of Land Reference Cases whereby the market value had been determined by the Reference Court at Rs. 14/- per sq. mt. The fact that exhs.56 & 57 had been accepted by the State and that no appeals were filed before this Court is of no consequence, or at least cannot work to the advantage of the claimants.

6.2 In view of the facts and in the circumstances of the case as stated hereinabove, both on the principle of comity as also on a question of appreciation of the evidence on merits, we are of the opinion that the market value as determined by the aforesaid decision of the High Court represents a true and correct market value of the lands under acquisition.

7. Accordingly, we determine the market value of the acquired lands at Rs. 11/- per sq. mt. The impugned judgment and awards shall stand modified accordingly, while the rest of the awards shall stand confirmed.

8. No other points are raised.

9. These appeals are therefore, partly allowed with no orders as to costs. Decree accordingly.

10. The appellants are directed to deposit the necessary amount of compensation together with costs and interest as due to the claimants under the present decree, in the Reference Court in separate Land Reference Cases within a period of 4 months from today.

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Amp/-